

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES)	APPELLANT'S MOTION
<i>Appellee</i>)	FOR ENLARGEMENT OF TIME
)	(FIRST)
)	
v.)	Before Panel No. 2
)	
Staff Sergeant (E-5))	No. ACM 40436
THOMAS R. BUENA)	
United States Air Force)	10 May 2023
<i>Appellant</i>)	

TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court's Rules of Practice and Procedure, Staff Sergeant Thomas R. Buena, Appellant, hereby moves for a first enlargement of time to file an Assignments of Error brief. Appellant requests an enlargement for a period of 60 days, which will end on **19 July 2023**. The record of trial was docketed with this Court on 21 March 2023. From the date of docketing to the present date, 50 days have elapsed. On the date requested, 120 days will have elapsed.

WHEREFORE, Appellant respectfully requests this Honorable Court grant this requested first enlargement of time for the submission of an Assignments of Error brief.

Respectfully submitted,

[REDACTED]

aj, USAF

Appellate Defense Counsel
Air Force Appellate Defense Division

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 10 May 2023.

Respectfully submitted,

[REDACTED]

ESHAWN R. RAWLLEY, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>)	OPPOSITION TO APPELLANT'S
)	MOTION FOR ENLARGEMENT
v.)	OF TIME
)	
Staff Sergeant (E-5))	ACM 40436
THOMAS R. BUENA, USAF,)	
<i>Appellant.</i>)	Panel No. 2
)	

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

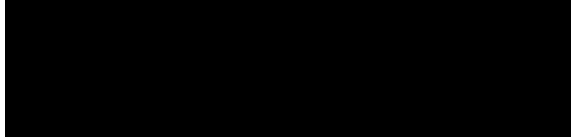
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

[REDACTED]

MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force
[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 11 May 2023.



MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES)	APPELLANT'S
<i>Appellee</i>)	MOTION FOR ENLARGEMENT
)	OF TIME (SECOND)
)	
v.)	Before Panel No. 2
)	
Staff Sergeant (E-5))	No. ACM 40436
THOMAS R. BUENA)	
United States Air Force)	12 July 2023
<i>Appellant</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for a second enlargement of time to file an Assignment of Errors brief. Appellant requests an enlargement for a period of 30 days, which will end on **18 August 2023**. The record of trial was docketed with this Court on 21 March 2023. From the date of docketing to the present date, 113 days have elapsed. On the date requested, 150 days will have elapsed.

On 15 November 2022, at a general court-martial convened at Columbus Air Force Base, Mississippi, a military judge found Appellant guilty, consistent with his plea, of one specification of wrongful possession of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934.¹ Entry of Judgment, 24 Jan. 2023, Record of Trial (ROT) Vol. 1. The military judge sentenced Appellant to a bad conduct discharge, confinement for fifteen months, reduction to the grade of E-3 (deferred until the date of entry of judgment), and a reprimand. *Id.* The

¹ All references to the UCMJ are to the version published in the *Manual for Courts-Martial, United States* (2019 ed.).

convening authority took no action on the findings of the court-martial, but suspended the reduction in rank for three months from the date of the entry of judgment, to be remitted thereafter unless sooner vacated. *Id.* Appellant is currently confined.

The record of trial consists of five prosecution exhibits, ten defense exhibits, twenty one appellate exhibits, and no court exhibits. The trial transcript is 111 pages long. Through no fault of Appellant, his counsel will be unable to completely review the record of trial and prepare and file an Assignments of Error brief prior to this Court's current deadline.

WHEREFORE, Appellant respectfully requests this Court grant this motion for a second enlargement of time for good cause shown.

Respectfully submitted,

[REDACTED]

ESTHAYN R. KAWALET, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 12 July 2023.



ESTHAYN R. RANDELL, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>)	OPPOSITION TO APPELLANT'S
)	MOTION FOR ENLARGEMENT
v.)	OF TIME
)	
Staff Sergeant (E-5))	ACM 40436
THOMAS R. BUENA, USAF,)	
<i>Appellant.</i>)	Panel No. 2
)	

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

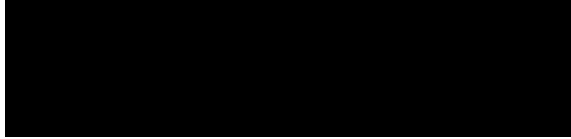
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

[REDACTED]

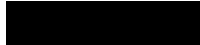
MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force
[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 13 July 2023.



MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force



UNITED STATES) No. ACM 40436
Appellee)
))
v.)
))
))
Thomas R. BUENA)
Staff Sergeant (E-5))
U.S. Air Force)
Appellant)

NOTICE OF PANEL CHANGE

ORDERED:

This panel letter supersedes all previous panel assignments.



TANICA S. BAGMON
Appellate Court Paralegal

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES <i>Appellee</i>)	APPELLANT’S MOTION
)	FOR ENLARGEMENT OF TIME
)	(THIRD)
)	
v.)	Before Panel No. 2
)	
Staff Sergeant (E-5))	No. ACM 40436
THOMAS R. BUENA)	
United States Air Force)	8 August 2023
<i>Appellant</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Staff Sergeant Thomas R. Buena, Appellant, hereby moves for a third enlargement of time to file an Assignments of Error brief. Appellant requests an enlargement for a period of 30 days, which will end on **17 September 2023**. The record of trial was docketed with this Court on 21 March 2023. From the date of docketing to the present date, 140 days have elapsed. On the date requested, 180 days will have elapsed.

On 15 November 2022, at a general court-martial convened at Columbus Air Force Base, Mississippi, a military judge found Appellant guilty, consistent with his plea, of one specification of wrongful possession of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934.¹ Entry of Judgment, 24 Jan. 2023, Record of Trial (ROT) Vol. 1. The military judge sentenced Appellant to a bad conduct discharge, confinement for 15 months, reduction to the grade of E-3 (deferred until the date of entry of judgment), and a reprimand. *Id.* The convening authority took no action on the findings of the court-martial but suspended the reduction in rank for three months from the date of the entry of judgment, to be remitted thereafter unless

¹ All references to the UCMJ are to the version published in the Manual for Courts-Martial, United States (2019 ed.).

sooner vacated. *Id.*

The record of trial is four volumes consisting of five prosecution exhibits, 10 defense exhibits, and 21 appellate exhibits; the transcript is 111 pages. Appellant is currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors.

WHEREFORE, Appellant respectfully requests this Honorable Court grant the requested enlargement of time.

Respectfully submitted,



MEGAN R. CROUCH, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division



CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 8 August 2023.

Respectfully submitted,



MEGAN R. CROUCH, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>)	OPPOSITION TO APPELLANT'S
)	MOTION FOR ENLARGEMENT
v.)	OF TIME
)	
Staff Sergeant (E-5))	ACM 40436
THOMAS R. BUENA, USAF,)	
<i>Appellant.</i>)	Panel No. 2
)	

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

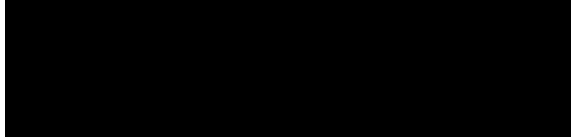
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

[REDACTED]

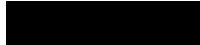
MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force
[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 8 August 2023.



MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee,

v.

THOMAS R. BUENA,

Staff Sergeant (E-5)

United States Air Force

Appellant

**MOTION TO WITHDRAW FROM
APPELLATE REVIEW AND ATTACH**

Before Panel No. 3

No. ACM 40436

18 August 2023

**TO THE HONORABLE, THE JUDGES OF THE UNITED STATES
AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 16 of this Honorable Court's Rules of Practice and Procedure and Rule for Courts-Martial (R.C.M.) 1115, Staff Sergeant Thomas R. Buena, Appellant, moves to withdraw his case from appellate review. Appellant has fully consulted with undersigned counsel, his appellate defense counsel, regarding this motion and his decision to withdraw. No person has compelled, coerced or induced Appellant by force, promises of clemency, or otherwise, to withdraw his case from appellate review. Further, pursuant to Rules 23(b) and 23.3(b) of this Honorable Court's Rules of Practice and Procedure, the undersigned counsel asks this Court to attach the two-page document appended to this pleading to the record of this proceeding. The appended document is necessary to comply with R.C.M. 1115(d) and R.C.M. 1115(e).

WHEREFORE, Appellant respectfully requests this Honorable Court to grant this motion to withdraw from appellate review, and to grant this request to attach matters to the record.

Respectfully submitted,



MEGAN R. CROUCH, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division



CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via electronic mail to the Court and served on the Appellate Government Division on 18 August 2023.

Respectfully submitted,



MEGAN R. CROUCH, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division



**UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS**

UNITED STATES)	No. ACM 40436
<i>Appellee</i>)	
)	
v.)	
)	ORDER
Thomas R. BUENA)	
Staff Sergeant (E-5))	
U.S. Air Force)	
<i>Appellant</i>)	Panel 3

On 18 August 2023, Appellant submitted a Motion to Withdraw from Appellant Review and Motion to Attach. Specifically, Appellant moved to attach a DD Form 2330, *Waiver/Withdrawal of Appellate Rights in General and Special Courts-Martial Subject to Review by a Court of Criminal Appeals*, signed by Appellant on 17 August 2023 and Appellant's counsel on 18 August 2023.

The Government did not submit any opposition.

Accordingly, it is by the court on this 28th day of August, 2023,

ORDERED:

Appellant's Motion to Withdraw from Appellate Review and Motion to Attach are **GRANTED**. Appellant's case is forwarded to the Appellate Records Branch (JAJM) for further processing in accordance with Rules for Courts-Martial 1115(f)(3) and 1201, *Manual for Courts-Martial, United States* (2019 ed.).



FOR THE COURT



FLEMING E. KEEFE, Capt, USAF
Deputy Clerk of the Court